



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398

August 3, 2004

PUBLIC HEARING: Peter and Annette Hanson, 277 Maple Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Peter and Annette Hanson, 277 Maple Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Residence B-2 District, to allow the construction of an addition 5 ft. from the sideline of Beacon Street upon property located at 277 Maple Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 612.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Hanson: We're Peter and Annette Hanson. We live at 277 Maple Avenue in Shrewsbury. We've lived at this address for 19 years. We moved here in August of 1985.

Our plan is to move our existing garage to the side of our house from the back of the house and attach it to our side porch so it faces Maple Avenue. I passed out 3 pictures. They're labeled 1, 2 and 3. The first one is a picture of the garage itself. That's basically what we want to relocate. Its size is 20 ft. wide and its 24 ft. deep. We would like to move this so that it does face Maple Avenue. It would line up with the front of our existing house. Right now, the front of the house is 43 ft. from Maple Avenue.

We would enclose the side porch and make that a mudroom and a laundry room as well. This would eliminate our need to make all the trips to the basement to do our laundry.

The back corner of the relocated garage would come to 5 ½ ft. from the property line. That's why we're asking for the variance. Beacon Street is a private road.

The back corner of the relocated garage would come to 5 ½ ft. from the property line. That's why we're asking for the variance. Beacon Street is a private road and has a large oak tree sitting right in the middle of it. Where the pavement ends and our property line exist, it is 19 ft. back from the existing paved road.

On the second picture, we took a photograph and I tried to superimpose some of the lines. You can see where the road ends. It's 19 ½ ft. to our property line and then it would be another 5 ½ ft. to the back corner of where the garage would be. Just before the June meeting, we did contact all of the abutters. We didn't have any negative comments or any objections at all. The Morrisons were here the last time, but we didn't present our appeal last time.

There are really 4 reasons for trying to make this change. The first one is to improve the drainage. In photograph 3, you can see that Beacon Street is a decent sized hill. The road slopes down to Maple and our driveway slopes down to our house. All of the rain comes down Beacon, comes down our driveway and ends up in our basement. So, by relocating the garage we can grade the lawn away from our house. Hopefully, it will take the water away from the basement.

The second point is that, even though our house is on Maple, it is relatively hard to find. We tell people that we are on Maple and people drive up and down Maple all day long trying to find our house. Even though we tell them you have to drive up Beacon and pull into our driveway, for whatever reason, they have trouble finding our house. We did get permission from the state highway department authorizing us, if this goes through, to cut in a driveway onto Maple. They allow a 16 ft. opening onto Maple Avenue.

The third point is handicap accessibility. With the garage relocated, we can eliminate a bunch of steps. Basically, we have 1 step to get into our house, which makes it much more handicap accessible for my wife as well as my mother-in-law.

The last thing is the aesthetics. For 19 years, we've looked out of our kitchen window. Our back window is looking at the wall of our garage. It would be nice to see our backyard or have to a backyard to look at.

Those are basically the reasons that we are trying to move the garage. On that attachment, basically, it's the plot plan. It has the approval of the state for the cutting in of the driveway. I tried to lay out where the street was as well as where our property lines were and just a rough, quick print of where the garage would be.

Mr. George: Is that going to be a steep grade for the driveway?

Mr. Hanson: No, it should be less than what we have at Beacon Street.

Mr. George: Really?

Mr. Hanson: Yes.

Mr. Salerno: Do any board members wish to inquire?

Mr. Gordon: The hardship being the topography and, because the way it is now, the water flows into your basement and this will eliminate that?

Mr. Hanson: Yes. With the floor of the garage up higher, we can grade back away from the house. We can grade the backyard away from the house. Right now, everything grades to the house.

Mr. Gordon: In actuality, the garage will be 24 ½ ft. from the existing side Beacon Street?

Mr. Hanson: Correct.

Mr. Gordon: But not from the right-of-way line?

Mr. Hanson: Correct.

Mr. Gordon: So, it won't be on the street?

Mr. Hanson: Correct.

Mr. Gordon: What is that, a 6 ft. maple?

Mr. Hanson: Yes. The diameter of the tree at the bottom of the hill is about 6 ft.

Mr. Gordon: So, that's not going to move.

Mr. Hanson: No. It's been there a long time. Mr. Nelson moved there in the early 1920's. He said that the tree looked as big then as it does now. So, I don't know how old that tree is.

Mr. Salerno: Do any other board members have questions? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Peter and Annette Hanson, 277 Maple Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Residence B-2 District, to allow the construction of an addition 5 ft. from the sideline of Beacon Street upon property located at 277 Maple Ave.

The appellants' property is located at the corner of Maple Ave. and Beacon Street with access to their existing detached garage via a driveway off of Beacon Street. The garage, which is located approximately 12 ft. off of the rear wall of their home, is lower than the elevation of Beacon Street thereby permitting surface runoff to enter the garage and the basement of the house. They propose to remove this structure and install a new driveway that will lead directly to Maple Ave., which will eliminate the runoff situation and open up the exposure to the rear of their home.

It was the board's opinion that, due the topography of the Hansons' lot and the siting of the existing structures thereon, the literal application of the terms of the Zoning Bylaw would impose a significant hardship to them in their attempts to remedy the aforementioned conditions. It was their opinion that, in this instance, the granting of the relief requested would not seriously depart from the intent of the bylaw, especially where relief is provided from a secondary private street, and that the construction of the new garage would not adversely impact the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rodolakis	Yes

PUBLIC HEARING: Bin Liu, 10 Roberts Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Bin Liu, 10 Roberts Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, to allow the construction of an addition 4 ft. from the side lot line of property located at 10 Roberts Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 38 as Plot 106.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Would the petitioner identify himself for the record please.

Mr. Liu passed out information packets.

Mr. Liu: I do not know what you would like.

Mr. Salerno: Would you just tell us who you are so they can have it on the audio record sir.

Mr. Liu: Okay. I'm Bin, Bin Liu from 10 Roberts Street.

Mr. Salerno: Okay Mr. Liu; you can continue to distribute whatever it is that you have. I'm sorry, we just wanted to get your name on the record.

Mr. Liu: I have just moved into this house maybe 6 months ago. This house is without a garage so I'm going to build a garage. Here is my house. This is north. This is the

property line. This is a fence, a steel fence separating my neighbor. This fence is about maybe 25 or 30 ft. long. This is a business, a storage business. The size of the garage is 14 ft. x 26 or 27 ft., roughly.

Mr. Salerno: You want to add a garage to the current house?

Mr. Liu: Right, attach it to my current house. Yes.

Mr. Gordon: It's only going to be 1 story tall? It's not going to be as tall as the house?

Mr. Liu: It's a 1-car garage, but I'm going to build 2 floors.

Mr. Gordon: So, you are going to go up to the current roofline?

Mr. Liu: It's lower than the current roofline.

Mr. Salerno: It's 2 stories, but it doesn't match the roofline. It looks like it's about 3 ft. shy of the roofline on the projected picture.

Mr. Gordon: How tall will it be?

Mr. Liu: Do you mean in the garage, how tall will it be? I'm so sorry, I have no idea yet. We can work with the town's laws.

Mr. Gordon: My concern is whether this is going to be a garage or a garage with living space above it.

Mr. Liu: It's not living space. The second floor is going to be storage or, if possible, maybe an office, but not for living.

Mr. Salerno: The design of what you're going to build, Mr. Liu, do you have any ideas. It's just a computer assisted entry on that photograph. Do you plan to make it blend in with the house? Is it going to be a modular garage? Is it going to be stick built?

Mr. Liu: Not yet. It's not a modular garage, for sure. For this plan, I don't have a detailed plan at this time. I need to get this appeal because a builder said that I should get the appeal approved first. Then we can work with the detailed plan. But the height of this garage is really flexible. It's not for living anyway.

Mr. Salerno: Have you had a chance to talk to any of your neighbors about it?

Mr. Liu: Yes. I checked as much as possible with my neighbors. So far, I have not gotten any negative comments or concerns.

Mr. Salerno: Do any board members wish to inquire?

Mr. Gordon: What would you say your hardship is?

Mr. Liu: I'm sorry?

Mr. Gordon: Your hardship?

Mr. Liu: Hardship?

Mr. Gordon: Hardship. You're asking for a variance from the zoning requirements.

Mr. Liu: Yes.

Mr. Gordon: Generally, there's a hardship that must be associated with your request.

Mr. Liu: Do you mean why I am here to apply for a variance? I'm so sorry I really should have talked about this earlier. The problem is that, from here to the edge of my property, there is only 4 ft. It's supposed to be 10 ft., but it's 4 ft. That's why I'm here to apply for the variance. I'm sorry about that.

Mr. Gordon: I think what Mr. Gordon is asking you, Mr. Liu, is that there are a number of recognized reasons why you are granted relief from what the law is, that 10 ft. setback. As the person before you talked, a lot of it was topography, design and use of the property and ledge. There are a number of reasons. He's asking why is it that you're seeking relief from the law. What is the hardship, the recognized exceptions that you believe support your request? You haven't had a chance to think about that yet?

Mr. Liu: I really apologize for my poor English.

Mr. Salerno: Your English is better than my second language. Don't worry about it.

Mr. Gordon: Isn't there a stream on the other side of your house that would preclude your doing anything on that side?

Mr. Liu: On the other side of my house you have approved?

Mr. Gordon: On the west side of your land, isn't there a stream there.

Mr. Liu: This is a grass land. There is a very small river going this way. This part is really not good for any construction. This is the driveway here. This is my normal driveway. This is totally a driveway. All this is paved. That's a concrete paved driveway. This is a storage business here. This is for rent.

Mr. Salerno: So, there is no other position on you property that would support this building?

Mr. Liu: No. This is the only place. Some builder suggested to me to build here, but I still would need a variance because, if I build a 2-car garage here, I would still need a variance.

Mr. Salerno: Do any other members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On August 5, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Bin Liu, 10 Roberts Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, to allow the construction of an addition 4 ft. from the side lot line of property located at 10 Roberts Street.

The board reviewed the appellant's proposal to construct an attached garage to the easterly side of his home and found that, due the shape of the lot, the placement of the existing structure thereon and the wetlands abutting the westerly side of the property, the literal enforcement of the applicable terms of the Zoning Bylaw would impose a significant hardship to Mr. Liu. They further noted that the garage would abut property that houses a nonconforming storage building and it was their opinion that, in this instance, the reduction of the side yard setback would not materially depart from either the intent or the purpose of the bylaw or create any condition which would adversely impact the welfare of other residents of this neighborhood. It was, therefore, unanimously voted to grant the appeal subject to the restriction that the maximum height of the addition shall be 16 ft. from the adjacent grade to its ridge and that there shall be no habitable space provided above the garage.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rodolakis	Yes

PUBLIC HEARING: Fred and Linda Dutile, 19 Morrill Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Fred and Linda Dutile, 19 Morrill Ave., Shrewsbury, MA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and Section VI, Table I, to allow the construction of an addition to be occupied in part as an in-law apartment upon property located at 19 Morrill Ave. maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 152.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Dutile: My name is Fred Dutile. I am here on behalf of my wife, Linda Dutile, and myself. We have proposed to build an in-law apartment onto our house. What I have is a double corner lot. I am seeking a special permit to maintain the current setbacks of the existing home. Due to that fact that it is a double corner lot and it being attached to my house, I would be too close to the abutting property line. The house has been there since prior to 1900. It's a homestead in the neighborhood.

Mr. Dutile passed out information packets to the board members.

Please excuse this. I did it myself on the computer. I thought it was pretty good. It shows the proposed addition. To maintain the style of the home, it's an old colonial with the gable end of it facing here, I would maintain the look of the home as it stood there for many years. Being that the lot depth is only 70 ft., to go with the 30 ft. front setback would then be infringing on the setback on the backyard. Also, not that aesthetics are a hardship, it would not look like the colonial home that it is and has been for many years. I am requesting the special permit for the reason of the depth of the lot and, aesthetically, to maintain the heritage that the house has had in the neighborhood since 1897.

Everything that I have given you is proposed other than my survey plan, which was recently done by Jarvis Survey. It's a proposed floor plan of the apartment done by me. It would obviously need some adjustments to be in code or what not. The digitally generated proposed addition is also my work.

Basically, it's a private road and to maintain what I have either way, I would need some type of relief. To maintain the homestead that it is, we are approaching the board to maintain the existing setback of the home.

Mr. Salerno: Do any board members wish to inquire?

Ms. Murphy: Tony, just for clarification, this appeal is for 2 special permits? One for the in-law apartment and one to maintain the existing front setback?

Mr. Alarie: Yes, it's to expand that existing nonconforming structure with an addition that would run parallel to the sideline of Morrill Ave. and to allow the area above the garage to be occupied as an in-law apartment.

Ms. Murphy: Okay, I just wanted to clarify that.

Mr. Gordon: Sadler Road side will stay the same?

Mr. Dutile: Sadler will stay the same. As you can see, at the corner of this addition you see a contact point. That is a pool deck that will be removed so that there will be clearance between the 2 items, the pool and the home, so that I can mow between there.

Mr. George: So, that deck is going to be removed?

Mr. Dutile: Yes.

Mr. Gordon: Are you going to put it somewhere else?

Mr. Dutile: Yes. Well, it might be removed completely or I might swing it around to the other side out of the way of the home. I haven't decided to eliminate it or make it smaller so that it's not an obstruction to the proposed project.

I have spoken with all of my neighbors. I've sat down with them all. They are all looking forward to it, to take part in it. It's a good thing.

Mr. Salerno: Would anybody else like to comment?

Mr. George: How many square feet would the in-law apartment be?

Mr. Dutile: I did all of this today before I came up here. I want to say that it's 936 sq. ft. I've been watching the meetings and I looked at my percentage of the area covered in my yard. I believe I'm below 20 %. If I'm not mistaken, is it 35 % maximum?

Mr. George: It's 30 %.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Fred and Linda Dutile, 19 Morrill Ave., Shrewsbury, MA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and Section VI, Table I, to allow the construction of an addition to be occupied in part as an in-law apartment upon property located at 19 Morrill Ave. maintaining the existing setbacks of said property.

The appellants' property fronts upon three streets, Morrill Ave. to the south, Melvin Ave. to the east and Sadler Ave. to the west. Their home is situated to the southwest corner of the lot and is nonconforming with respect to its setbacks from both Morrill Ave. and Sadler Ave. The parcel is very wide having 180 ft. along Morrill Ave., but it is only 70 ft. in depth. Mr. and Mrs. Dutile propose to construct an addition to the easterly side of their home that would utilize, but not to its full extent, the structure's existing nonconforming setback from Morrill Ave. The street level of the addition would be use primarily for the garaging of family vehicles and the second floor would be occupied as an in-law apartment.

Upon review of this appeal, the board found that the proposed expansion of the Dutile's home would not materially alter its nonconforming configuration and that the construction of the addition would not adversely impact the welfare of area residents. They noted that the appellants' home is located within a single and two-family zoning r and residential district and found that the use of the second floor as an in-law apartment was compatible with other properties within this district as well as the intent of the Zoning Bylaw in permitting such accessory living accommodations within or attached to a single family dwelling. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rodolakis	Yes

PUBLIC HEARING: Patricia A. Swaney, 18 Seneca Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Patricia A. Swaney, 18 Seneca Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 30 ft. from the rear lot line of property located at 18 Seneca Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 29 as Plot 189.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Ronald I Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Swaney passed out information packets to the board members.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Ms. Swaney: I'm Patricia Swaney.

Mr. Swaney: I'm David Swaney. I'm representing her. She wants to do an addition off of the back of the house to expand her kitchen which will encroach on the rear setback approximately 6 ft., 4 in., I believe. It's a relatively small addition. It's a 1-story addition. It's a 1-story ranch house. Again, it's just to expand her kitchen, which at this point, is very small. After that addition is built, she would also be able to remodel the inside to extend a living room area also. The addition would be incorporated into the house. Everything would match. All of the siding and everything would be matched to the existing conditions.

Ms. Swaney: I have spoken to most of my neighbors, not all of them, but most of them. They have no problem with it.

Mr. Salerno: It's always a good move.

Mr. Gordon: You're on a dead end anyway, right?

Ms. Swaney: Yes, I am.

Mr. Gordon: Is there a porch on the corner of your house?

Ms. Swaney: It's a small porch about 4 ft.

Mr. Gordon: Is that going to come down?

Mr. Swaney: Yes.

Ms. Swaney: The only thing that I'm going to put over there is like a mudroom. We don't need a variance for that. We have enough room for that.

Mr. Swaney: The side setback is within the limit.

Mr. Gordon: The driveway is going to stay there?

Ms. Swaney: Yes.

Mr. Gordon: I had trouble finding that section of town.

Ms. Swaney: People still have a problem with it.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Patricia A. Swaney, 18 Seneca Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 30 ft. from the rear lot line of property located at 18 Seneca Street.

The board reviewed the appellant's proposal to construct an addition that would project approximately 9 ft. off of the rear wall of her home and found that, due to the lot's lack of depth and its overall configuration, the enforcement of the applicable terms of the Zoning Bylaw would impose a severe hardship to Ms. Swaney in her attempt to expand her

home. They noted that many of the other properties located in the General Ward Manor neighborhood are nonconforming with respect to their size and the setback of the structures situated thereon and felt that, under such circumstance, the granting of the minimal relief requested would neither derogate from the intent of the bylaw nor detrimentally affect the welfare of area residents. They, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes
Mr. Rodolakis	Yes

PUBLIC HEARING: Timothy Walsh, 7 Rockwell Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Timothy Walsh, 7 Rockwell Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection C, to allow the installation of an inground swimming pool 8 ft. from the side lot line of property located at 7 Rockwell Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 42 as Plot 7-6.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Would the petitioner come forward, identify himself for the record and make his presentation.

Mr. Rodolakis: I have to recuse myself Tony.

Mr. Salerno: Okay. Is this Mr. Walsh?

Mr. Carney: Just for the record Mr. Chairman, I'm Mr. Carney. I'm the president of SRG Group and I'm representing Mr. Walsh here tonight.

Mr. Salerno: Okay. I'm going to tell you, Mr. Walsh, that one of the members recused himself as having what he feels may be the appearance of a conflict. As a result of that you're left with 4 board members. You're entitled to have the matter heard by 5. With this now you would need a different percentage to pass. You have the option to not go forward with this. Mr. Alarie, would he automatically be on the next agenda as a result of that?

Mr. Alarie: Yes.

Mr. Salerno: Okay. So, you have that option. We apologize. We didn't secure an alternate for this evening's meeting. Do you want a moment to consult as to whether or not you want to go forward? This is a request to put a pool in, correct?

Mr. Walsh: Yes.

Mr. Salerno: Mr. Walsh, just one second. Is there anybody in attendance this evening that wants to comment on this petition? Okay.

Mr. Carney: Mr. Chairman, we request the hearing to be continued until the next meeting so that we have full numbers in here.

Mr. Salerno: The only thing is I don't know... This is a pool that you're trying to put in now for the season?

Mr. Carney: He is trying to get it in as soon as possible.

Mr. Salerno: I'm not quite sure when the next meeting is going to be.

Mr. Walsh: It probably wouldn't be until next year anyways. It would be the end of the year even if it was approved. There are other issues that I have to deal with later anyway with conservation and that.

Mr. Carney: Yes, if we got the ZBA approval, the next step would be to go to the conservation commission. That's basically the hardship that he's facing. There is no other place to put the pool but where he's proposing to put the pool.

Mr. Salerno: Would you like to be on the next scheduled meeting?

Mr. Carney: We would appreciate that as long as there is a full board.

Mr. Salerno: Mr. Alarie?

Mr. Alarie: Most likely I would say that right now we're looking at probably early September.

Mr. Salerno: Does that adversely affect what you want to do?

Mr. Walsh: No.

Mr. Salerno: I apologize. Those people that are here in attendance relative to this matter, we inadvertently did not secure an alternate. If a member has a conflict or just feels uncomfortable with the particular matter, then the alternate usually sits. We didn't secure it. The petitioner has the option to go forward. It's a different voting percentile because now there are only 4 members where a dissenting vote would have a greater impact.

Because of that, we're allowing them to have the matter put over to the next agenda without any prejudice.

Is there anyone here who wants to be heard relative to that? Seeing no further interest in that, Mr. Walsh, I apologize, but we'll put this on the next matter.

Mr. Walsh: Thank you.

August 3, 2004

PUBLIC HEARING: Mark and Sue Coggeshall, 22 Alden Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Mark and Sue Coggeshall, 22 Alden Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, and a special permit as required by Section IV, Subsection B, to allow the construction of an addition 3 ft. from the side lot line and maintaining the existing front yard setback of property located at 22 Alden Ave. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 265.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Coggeshall: Good evening, my name is Mark Coggeshall. I live at 22 Alden Ave. We're here to follow up on our previous appeals. We were actually here in April. At the time, we had requested a variance to construct the addition to within 6 in. of the property line. We actually withdrew the petition during the meeting as there was concern among the board, primarily due to safety concerns, that there would not be access to the backyard, particularly if any future neighbor had constructed a fence or something there along that side of the yard. So, we checked with town safety officials, including the fire chief, and the bottom line was that he was not concerned at all because there was access to the rear yard through one side of the house. He explained that the rules for residential are that you need access around one side of the house. For commercial buildings, he said access is needed around 2 sides of the building.

That being said, because there's a bit of ambiguity surrounding the situation and the concern you had that the 6 in. was still too close, we decided to scale back the plans to not include a 2-car garage. So, basically, what we propose is an oversized 1-car garage to accommodate a workshop. So, right now, the closest point of the house is 5 ft. from the property line. So, we're requesting a variance to go within 3 ft. of the property line.

Mr. Salerno: Okay. Do any board members wish to inquire?

Mr. George: Do you have any plans of what this is going to look like?

Mr. Coggeshall: No. I just have the original plans. I had sketched over it. The new plans are in process. They're not completed yet.

Mr. George: Is it going to be a 1-story addition, 2-story addition?

Mr. Coggeshall: It will be just a 1-story addition.

Mr. Gordon: That's a family room behind the garage or is that just a garage?

Mr. Coggeshall: It's a family room. Where the current garage sits, that will become a family room. Then a new single car garage will be built in front of that which will be even with the front of the house.

Mr. Salerno: How wide is that structure going to be?

Mr. Coggeshall: The new garage? That's the part that isn't complete yet, but I think it's going to be around 18 ft. or so, 18 or 18.5 ft. The original plan that I have here had it at 21 ft.

Mr. Salerno: So, that means that there are approximately, what, 23 ft. between your house and that side lot line and 33 ft. on the other side? You're just off-center on the house?

Mr. Coggeshall: We're not touching the side of the house where the 33 ft. are. On the other side of the house, the back corner of the garage is currently 5 ft. from the property line.

Mr. George: The existing garage you have right, is that also 5 ft.?

Mr. Coggeshall: That is 5 ft.

Mr. George: It is 5 ft. So you're using the same side yard setback?

Mr. Coggeshall: That's correct.

Mr. Alarie: No, actually at that rear corner, there would be an additional 2 ft. encroachment.

Mr. George: Oh, okay.

Mr. Salerno: It's just off-center and at an angle to the lot line.

Mr. Alarie: It increases as you get to the front of the lot because that structure is askew to that lot line. It's a little bit misleading on the plot plan because it kind of represents a whole new structure to the right-hand side of the house. Where that shows "garage" on

the plan, that is the existing structure. That part of the structure is going to be expanded and then the garage moved to the front.

Mr. Salerno: Sir, have you spoken with your neighbors?

Mr. Coggeshall: Yes.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals voted four in favor of and one opposed to the granting of the appeal of Mark and Sue Coggeshall, 22 Alden Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, and a special permit as required by Section IV, Subsection B, to allow the construction of an addition 3 ft. from the side lot line and maintaining the existing front yard setback of property located at 22 Alden Ave.

The appellants plan to remove a garage that is attached to the right rear corner of their home and to then construct a new garage and a family room along that side of the building. The entrance to the garage would be brought forward even with the front line of the house and the family room would be located to its rear in close proximity to where the existing garage now sits. The right rear corner of the family room would reduce the existing side yard setback by approximately 2 ft.

Four members of the board found, in reviewing the Coggeshalls' proposal, that the size and shape of subject lot and the placement of the existing structure thereon present an undue hardship to the appellants in their attempt to expand their home. It was the board's opinion that neither the reduction of the side yard setback nor the utilization of the existing front yard setback to effect the proposed construction would seriously depart from either the intent of the Zoning Bylaw or materially change the nonconforming configuration of this property. Furthermore, they found that the completed structure would be compatible with the general character of other homes within this neighborhood and that it would not adversely impact the welfare of either the general public or area residents. They, therefore, voted to grant the appeal as presented to the board.

One member of the board was of the opinion that the granting of the appellants' request to further reduce their existing nonconforming side yard setback and to permit a structure to be constructed 3 ft. from a property line would substantially derogate from the intent of the Zoning Bylaw. She felt that, in this instance, the approval of the variance would also conflict with the statutory requirements for the granting of such relief and, therefore, voted to deny the appeal.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	No
Mr. Rodolakis	Yes

PUBLIC HEARING: Joseph N. Pepper, 7 Ira Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Joseph N. Pepper, 7 Ira Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage Requirement, Residence B-2 District, to allow the division of property located at 7 Ira Ave. into two lots with one lot having 70 ft. of frontage. The subject premises is described on the Shrewsbury Assessor's Tax Plate 13 as Plot 24.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Counsel, would you identify yourself for the record and make your presentation.

Atty. St. Pierre: Yes, Attorney Rod St. Pierre. With me tonight is Joe Pepper, the owner of the property. I'm just going to pass out some information.

This is a request for a variance. Just by way of history, Joe's owned the property since 1997. Knowing that it's a 26,000 sq. ft. lot, he was always of the opinion that he could subdivide it at some point in the future. Circumstances dictated that he could not do it until this year. He then contacted Kevin Jarvis and hired Kevin to prepare a subdivision plan, ANR plan, for the lot. In addition to using Kevin, he hired an engineer to do a perc test and a deep hole test to prepare a septic design. So, the ANR plan is completed. The septic design is completed. He then came to me to represent him. He's working with a friend of his to buy the lot, to work out the agreement and different aspects of that to transfer the property over.

The configuration that was submitted to the town basically showed the 2 lots, 1 fronting on Pond Ave. and the other fronting on Ira Ave. We were going to do a driveway easement because, if you look at the pictures, the free standing garage and the garage to the right of the house all come in off of Pond Ave. There's really no access to Ira Ave. It just hasn't been designed that way. Again, we went forward only to be somewhat shocked when the engineering department decided this did not meet the requirements for an ANR plan.

I've given you the regulations that are there. Basically under the terms of the regs, they talk about what is required is a way in existence when the subdivision control laws became affective. Again, this road has been around for some 90 years. In the opinion of the planning board, there needs to be sufficient width, suitable grades and adequate construction to provide for the needs for vehicular traffic and so on and so forth. The engineering department and then the planning board looked at this and agreed that this lot did not meet that requirement because of the grades and the gravel road, even though it's a town road and even though it's maintained by the town. Again, there are only 2 houses on Ira Ave.

We then entertained discussions with the engineering department, talked about only entering it off of Pond Avenue because, again, that's the way it is right now. Kevin Jarvis was in the process of preparing a new plan showing frontage of 12 ft. on Pond Avenue. I've given you a sketch of what would be proposed. The only thing different is that they would reconfigure Lot 2 a little bit. Again, the square footage would be approximately the same. One lot would definitely be over the 12,500, which is your minimum requirement. But, you would loose 12 ft. of frontage. You would go from 174 on Pond down to 162.

Again, these lots meet all the other requirements of zoning, the size, frontage, everything else. But, because of this stretch of dirt road, the engineering department and planning board felt that that was an issue.

Mr. Salerno: Are they all under one deed?

Atty. St. Pierre: Yes.

Mr. Salerno: So, they've merged into each other?

Atty. St. Pierre: Well, again, they're not nonconforming lots. These are conforming lots. This meets all of the other requirements, but for an interpretation which I don't necessarily agree with. But for this interpretation, because of the width of the road and the grade, it all complies. It's only 2 houses and really only 1 of those 2 houses uses Ira Ave.

Joe's been there for 7 years. He comes in Pond. He comes in through his garage on Pond. We will either do a driveway easement off of Pond or do a 12 ft. frontage off of Pond. None of that's going to change. We'll even put a restriction in that you can't enter from Ira Ave into the garage. I don't have any problem with any of that because that's not what has happened there for the last 90 years.

In any event, I really believe it's a candidate for a variance. When you look at hardship, it's because you're unable to use the property for the use intended. Here soil conditions, shape, topography, that's a hardship. That's really what the definition of what a hardship talks about in our bylaws and the state laws. He was denied a plan because of this and, therefore, the need for a variance is why we're here tonight. He cannot construct or subdivide this property without a variance. It's a large lot.

I've given you a zoning map and highlighted the pink portion of the lot that we're talking about. If you look at the abutting lots, they're all less. In fact, the one next door, I think, is only 7,000 sq. ft. So, all of them are pre-existing, nonconforming. They're all on dirt roads and they're all maintained by the town. The realities are that, if you're going to go down to Rice Ave to go to the house, you're going to have to go down Pond Ave. anyway. This is right where Sophie's Restaurant is. That's where we're talking about.

There's really no affect on the abutting lot. It's strictly unique to this lot. It's really no detriment to the public good. Again, access is going to be on Pond. So, we can either leave it the way it is and seek a variance with 70 ft. and do a driveway easement coming in off of Pond or, if the board so chooses, you want frontage access by 12 ft. for a driveway on Pond, we can entertain that as well.

Mr. George: So, your intention is to have both driveways enter through Pond?

Atty. St. Pierre: Well, right now you've got a driveway that comes, technically, off of Route 70. You can see the driveway off of Route 70. Also, if you look at the pictures, they use it off of Pond. So, basically, the new house to be constructed would come in off of Pond. We can come in off that, either as a driveway easement which could be shared, we could do that as well, or leave it the way it is and take the 12 ft. width, again, maintaining the minimum 12,500 for that Lot 1. I told Kevin to stop until we see what the board felt was the best way of proceeding.

Mr. Gordon: I spoke to the engineer. This came before the planning board for an ANR because the engineer had denied it as an ANR. We decided that it should come to the Zoning Board of Appeals. This is my interpretation of what the engineer said to me. This is a candidate for a variance. There are problems with the topography of the land. Other than that, this would be an ANR lot. He would not be opposed to a variance of this type. Again, that's my interpretation of his words because everything else meets zoning.

Ms. Murphy: Everything else but what?

Atty. St. Pierre: The width of the road.

Mr. Gordon: The fact that the engineer determined from the Planner's Handbook, that in a strict interpretation, Ira Road did not meet the criteria for frontage.

Atty. St. Pierre: That it's not a way?

Mr. Gordon: Well, it is a way, but his interpretation is that it's not a way. The clerk has it as a way. People receive mail on it as a way. It's plowed by the town. I don't know who maintains it because it's a private road. It's a 20 ft. right-of-way, but the road is probably less than 20 ft. wide would be my guess.

Mr. Rodolakis: It's about 23 ft.

Mr. Gordon: It's tarred up to the top of the hill, but stone from the top of the hill down to Rice Ave. But, it's very passable.

Ms. Murphy: Excuse me. Without splitting the lot, what's the frontage for the house on there now?

Atty. St. Pierre: On Ira, there's 190 ft. of frontage.

Ms. Murphy: No. What's the legal frontage?

Atty. St. Pierre: On Pond?

Ms. Murphy: Yes.

Atty. St. Pierre: It's 174.

Ms. Murphy: Okay. But, by splitting the house, you're losing your frontage of 174 on Pond. Therein lies your problem. You want to then consider the back?

Atty. St. Pierre: Right. So, then we were going to use Ira because the way that Kevin Jarvis looked at it, it's 190 ft. You need 100. That's fine, but then again, subsection IV of the regulation is where Jack is looking at it by saying that there wasn't sufficient width. So, the authority is with the planning board as far as an ANR plan and what they have to meet. He determined that there wasn't sufficient width on Ira to meet that requirement plus the grade. If you look at one of the pictures, you'll see that the pavement goes down towards Route 70.

Mr. Salerno: But, there's nothing on Ira.

Atty. St. Pierre: There are 2 houses on Ira, period.

Mr. Salerno: Well the other house, isn't the other house using Route 70 as its frontage?

Atty. St. Pierre: No, the other house that you're seeing there is probably Sophie's restaurant. Then you've got 1 right across from where it says Ira Ave. There's a single family house there. That's the only other house on Ira that uses Ira, just those 2 houses.

Mr. Salerno: Is there any house on Ira that's using Ira as the frontage?

Atty. St. Pierre: I think both of them are Verona and the one that looks like Lot 19.

Mr. Salerno: Lot 19's using it?

Atty. St. Pierre: Well, you've got 139 ft. of frontage on Ira. Again, these houses have been there for a long time.

Mr. Salerno: But, are they using Verona or are they using Rice for their frontage?

Atty. St. Pierre: I don't really know. Joe, this house here, where do they come into their property?

Mr. Pepper: They come in onto Ira.

Atty. St. Pierre: Onto Ira. So, there's one other house. Even Joe's house, for all intents and purposes, doesn't use Ira. He uses Pond. Again, all of these houses have been there probably 60, 70, 80 years.

Mr. Salerno: Ron, why wouldn't these lots merge into each other?

Mr. Alarie: It's not a question of merging because you're not dealing with nonconforming lots in terms of area. It's really a question of the physical condition of Ira Ave. and whether or not that affords legal frontage.

Mr. Salerno: The engineering department says that it's not a legal road.

Mr. Gordon: In that case, it wouldn't have legal frontage.

Mr. Alarie: Rice Ave. would if the planning board judged that that had sufficient width. It's the same construction as Ira Ave, right?

Atty. St. Pierre: Well, it's flat.

Mr. Gordon: The only difference is that it's flat.

Atty. St. Pierre: Right.

Mr. Alarie: These were just all paper streets and, if all you had was Pond Ave. for legal frontage, yes they would be merged. Someone would have the option of having to build or construct one of the paper streets.

Mr. Salerno: Well, I guess that's my next point. Why aren't they paper streets?

Mr. Alarie: Because they are traveled.

Atty. St. Pierre: And they are maintained by the town.

Mr. Salerno: Yes, but the engineering department doesn't recognize them.

Atty. St. Pierre: After they maintain them, I'm sure for refunding from Boston, that's all part of the roadway. I mean, they plow it and they maintain it.

Mr. Rodolakis: I think the other aspect was, I recall because I sat on this decision as a planning board member and voted not to endorse the ANR plan, that there was a determination, at least by the engineer, that access from Ira was illusory. That's the other aspect.

Atty. St. Pierre: Because of the grade, shape and topography and, again, if you look at the definition of a hardship, it's there. It hits you in the face.

Ms. Murphy: Excuse me. Isn't the hardship then you're talking about the topography of Ira Ave. and not the property owned by Mr. Pepper?

Atty. St. Pierre: It's still the same frontage. It abuts Ira Ave.

Ms. Murphy: But, unless there's a passable way, unless Ira Ave.'s a passable way, then there is no frontage. I think that that's the determination that the planning board made when they denied the ANR plan, if I'm hearing it right.

Atty. St. Pierre: I would defer that to Mel.

Ms. Murphy: So, that then flips your frontage to Rice Ave.

Atty. St. Pierre: Right, exactly. Again, our frontage is the same. It's Ira that the grade's going to be the same coming onto the property. Again, if you're going to come onto the property from Ira or Rice, you're much better off coming onto Rice because it's flat. But, again, the hardship exists that you can't use your frontage, which is 190 ft. of frontage.

Ms. Murphy: Well, you can't consider that your frontage. You can only consider Rice Ave. as your frontage.

Atty. St. Pierre: Well, the engineering department is indicating that's the case.

Ms. Murphy: That's what I mean.

Atty. St. Pierre: Right.

Mr. Alarie: But, it is passable. It's not as though it's a paper street. It is used for that house on 19. They drive up and down that street. Part of it is paved. Again, basically because of the width and the grade of that street is why the plan was not endorsed. I think one of the issues that led to that determination was that it was reviewed some time during the winter when things were much narrower than they appear today. I've driven up Ira Ave. just to review its condition. It is passable. But, in the opinion of the planning board, it doesn't meet 1 of the 3 criteria set forth in the subdivision control law to qualify as a street.

Atty. St. Pierre: Again, the only relief is, as the planning board said, to go for a variance.

Mr. Pepper: It is plowed by the town and maintained by the town. The trash truck comes up every week. It doesn't have a problem.

Atty. St. Pierre: Do they spread any gravel or do anything as far as maintaining the gravel?

Mr. Pepper: I've done that myself over the years. They do come by occasionally and trim the trees back and our shrubbery.

Mr. Salerno: If this was not granted, what would you do? Would you continue to use the access the way you're using or come in from the other side?

Atty. St. Pierre: Nothing would change. We would have a 26,000 sq. ft. lot instead of two 12,500 or 13,000 sq. ft. lots.

Mr. Salerno: Do any board members wish to inquire? Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals voted two in favor of and three opposed to the granting of the appeal of Joseph N. Pepper, 7 Ira Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage Requirement, Residence B-2 District, to allow the division of property located at 7 Ira Ave. into two lots with one lot having 70 ft. of frontage.

Upon review of this appeal, the majority of the board found that there were no conditions affecting the subject premises that precluded it being subdivided into two buildable lots. Rather, they found that the hardship present by the appellant related to the condition or status of the streets upon which it fronts, particularly, Ira Ave. It was their opinion that the granting of the relief requested, in this situation, would not comply with the statutory requirements for the granting of a variance and they, therefore, voted to deny the appeal.

Two members of the board found that, due to the configuration of Mr. Pepper's lot and the condition of Ira Ave., which has been used for public travel for many years, the literal application of the minimum standards set forth in the Zoning Bylaw would impose a significant hardship to Mr. Pepper in his attempt to fully develop his property. They felt that the configuration of the two parcels was in total compliance with the minimum terms of the bylaw and that each lot was equal to or greater than, in terms of size, many of the properties situated within the Morningdale neighborhood. They, therefore, voted to grant the appeal.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	Yes
Ms. Murphy	No
Mr. Rosen	Yes

PUBLIC HEARING: Scott Migala and Gary Mattos, 57 Old Brook Road, Shrewsbury, MA.

PURPOSE: To hear the appeal of Scott Migala, 4 Montclair Drive, Worcester, MA, and Gary Mattos 7 Wachusett Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage Requirement, Residence B-1 District, to allow the construction of a single family home upon a lot having 100 ft. of frontage located at 57 Old Brook Road. The subject premises is described on the Shrewsbury Assessor's Tax Plate 29 as Plot 33-1 and part of Plot 33.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Mattos: Gary Mattos.

Mr. Migala: I'm Scott Migala.

Mr. Mattos passed out information packets to the board members

Mr. Mattos: Basically, we're before the board seeking a variance for frontage. We believe that the hardship here is that there is a zoning line going through the lot, the B-1 and the Residence A zoning line which is here. We've added some area to the lot so that it exceeds the Residence A requirement. The issue is the frontage. Since the majority of the lot is in the B-1 zone, which only requires 100 ft., we feel that that's a reasonable request.

Mr. Salerno: Okay.

Mr. Gordon: Ron, where the frontage is in the Residence A, that requires 125 ft.?

Mr. Alarie: Correct.

Mr. Gordon: Where the frontage is in the Residence A, that's the frontage that we have to look at, right?

Mr. Alarie: Yes.

Mr. Gordon: Most of the land is in the Residence B-1, but the frontage is in Residence A and, even though it's a split lot, it's the 125 ft. that they need?

Mr. Alarie: That's the required frontage per Table II relative to that district.

Mr. Rodolakis: This lot was not grandfathered? I see an old book and page reference.

Mr. Alarie: No. Actually, it was part of an older subdivision. The property just to the west of it was part of this lot. There was an ANR plan that was endorsed by the town engineer back, I believe, in the early 70's, or somewhere in the vicinity, on which the zone line was mislaid on one of the subdivision plans. That plan was erroneously endorsed and, subsequent to that, the appellant applied for a variance. The board at that time granted the variance; however, that decision was overturned in Superior Court. I think that since that time there have been a couple of more attempts to try to seek a variance. The board, following the court's decision, denied those requests.

Mr. Rodolakis: It was excused or reversed based on the same facts that are present today?

Mr. Alarie: Other than there is additional land area that has been acquired, it's primarily the same issue relating to the frontage. Mr. Migala owned the lot that you see on this plan that says "McGinnis" and owned or acquired the balance of this lot. Again, through that original endorsement on that ANR, he believed that he had 2 lots.

Mr. Mattos: We also want it known that there is a lot in the Residence A zone, Mr. Fohlin's lot on the South Street side of this lot, that, if you noticed the area, is only 16,985 sq. ft. It is substantially smaller than the 20,000 required.

Mr. Salerno: Where is it in relation to your lot?

Mr. Mattos: It's at the corner.

Mr. Salerno: The corner of Old Brook and South?

Mr. Mattos: Yes. One other thing I might add is that Mr. Fohlin has put forth a letter saying that he is against that and that nothing has changed. The frontage is still 100 ft. I've given the board a plan marked "Number 2", which is evidence to the contrary. Mr. Fohlin is well aware of what we were trying to do. I started all of my actions with Mr. Fohlin. So, I think his letter is what it is.

Mr. Salerno: What was this again?

Mr. Mattos: He's one of the abutters, Mr. Fohlin.

Mr. Salerno: Fohlin?

Mr. Mattos: He's to the right heading towards South Street. Both of those lots are Mr. Fohlin's. The one that's actually nonconforming on the corner is Mr. Fohlin's. He subdivided that lot. The lot between that lot and Mr. Migala's is also Mr. Fohlin's.

Mr. Gordon: His corner lot is the one shown as "Now or Formerly Flynn?"

Mr. Alarie: That's correct.

Mr. Mattos: So, I started out with him so that's where we were initially going with this whole situation. With the frontage that he would have given us, we would have had 2 conforming lots per the zoning requirements.

Ms. Murphy: But, he didn't give you the frontage?

Mr. Mattos: No. I had it for 7 months and then he took it away.

Ms. Murphy: So close.

Mr. Mattos: Yes. It didn't count.

Mr. Gordon: When was the Flynn house built?

Mr. Alarie: The Flynn house has been there for a number of years. That was the original home.

Mr. Gordon: Before zoning?

Mr. Alarie: That was all on property where you see the names "Flynn" and "Fohlin" on the plan. The board granted Mr. Fohlin a variance to subdivide that parcel. I'm not sure if it was in the late 80's or early 90's.

Mr. Migala: Yes. It was about 15 years ago.

Mr. Gordon: When it was subdivided?

Mr. Alarie: Yes, those are the 2 resulting lots.

Mr. Salerno: That was before they built Old Brook?

Mr. Alarie: No.

Mr. Migala: No, that was there.

Mr. Rodolakis: Well, he didn't do anything with the variance?

Mr. Mattos: Excuse me?

Mr. Rodolakis: He didn't do anything with the variance?

Mr. Alarie: He affected it. He had an ANR plan prepared, endorsed and filed at the registry of deeds and, subsequent to that, sold off the lot identified here as "Flynn." He never has built anything upon it.

Mr. Rodolakis: Doesn't it lose its status?

Mr. Alarie: No, he's affected it through the recording of the plan.

Mr. Salerno: Mr. Conlon also wrote a letter dated August 3rd stating that the property doesn't meet minimum frontage requirements in the zone and that he is against it, both Robert and Janet.

Mr. Mattos: Which I might add is contrary to my discussions with him earlier. His issue with Scott at the time was about property values.

Mr. Salerno: Do you want to see the letter?

Mr. Mattos: I have it.

Mr. Salerno: Okay.

Mr. Mattos: His issue was that Scott's land area was a detriment to the value of his property since it was under 20,000 sq. ft. In my discussions with him, he felt that, by acquiring the extra 2,000 sq. ft., he didn't have an issue with it. So, I was kind of shocked today to see him come forward with that letter. I have been down at the Cape. I actually came back from the Cape this afternoon for the meeting. There was a message on my machine from him calling me back. So, I was surprised to see the letter.

Mr. Salerno: This was before the board back in 87, correct? There's a folder here for 77 also.

Is there anybody in attendance this evening that wants to comment on this petition? Would you just identify yourself, ma'am, for the record.

Ms. Flynn: Sure, I'm Lori Flynn.

Mr. Salerno: Ms. Flynn, what would you like to tell the board?

Ms. Flynn: Welcome. I just want to keep the privacy that I have now. I was told that you may have to dig into my yard to get frontage. I received this letter and I decided that I could come and question the board as to what it's all about. I'm just here to find out what the appeal is about.

Mr. Migala: No, that wouldn't be necessary I don't believe.

Mr. Mattos: No, there's no concern there.

Ms. Flynn: Welcome to the neighborhood.

Mr. Mattos: Thank you.

Mr. Salerno: Folks, just identify yourselves for the record.

Ms. Brazauskas: Yes, I'm Pamela Brazauskas from 116 South Street. I have lived in Shrewsbury all of my life. I used to be on Oak Street. Upon moving to South Street, we

had a nice country road which we know was widened for safety issues. But, I will say that, during the time since 1980 that we've been here, we've seen development at Lamplighter, Hunting, etc. The wildlife has virtually disappeared. I'm kind of concerned about the population density increasing. I think that, if these homes were for these people individually, that might be another issue. I believe Mr. Migala owned the land and initially had a dwelling, a home, there and then separated out a portion that he new was less than the needed requirement for building at that time. I think the privacy issue is important in Shrewsbury now. I don't know how many of the rest of you have been here for 50 plus years, but I think we have to preserve some open space for the wild life and for privacy. Thank you.

Mr. Salerno: Okay. Thank you ma'am. Is there somebody else back there?

Mr. Brazauskas: I'm Pam Brazauskas's husband. We're opposed to it. We abut the rear property line.

Mr. Salerno: Okay.

Mr. Bisceglia: Jon Bisceglia, 58 Old Brook Road. I've talked to all of the parties involved. I've been here 42 years of my life. We thought about it and we've gone to both sides of this, yea and nay. I talked with Gary today. I'm back on the yea side. The reason being is that the lot across from us at 58 is an eyesore. Anything that can beautify the town, I'm for. If we could get the owner who owns the lot right now, and I think it is Doug who is saying no to him now, to actually clean up the lot, it would make it nicer. But, I also think that, by having a house back there, it would beautify it little bit more. So, I'm back on the yea side.

Mr. Salerno: Okay.

Ms. Flynn: I agree with him.

Mr. Salerno: You just have to tell us your name ma'am because the recorder doesn't recognize it.

Ms. Flynn: Lori Flynn. I agree exactly with that shed that's there. There's a shed that's on that property.

Mr. Bisceglia: It's kind of on the trashy side.

Ms. Flynn: Oh, it's horrible.

Ms. Brazauskas: Could I have a clarification? I thought that was Mr. Fohlin's property?

Mr. Mattos: That is.

Ms. Brazauskas: I don't think that their property has anything to do with Mr. Fohlin's property. He's not up here to represent himself so I don't think that we should be talking about Mr. Fohlin's property.

Ms. Flynn: Well, I'm here to find out what this is about.

Mr. Salerno: All right folks. This is how we're going to do it so that everybody's on board. We're going to have questions. The dialog is healthy and good and it's appreciated, but we can't run an orderly meeting that way. So, if you have a question or comment, direct it to us. We'll try to get an answer for that particular issue. We're dealing with the property that's requesting relief. So, we're not dealing with any other lot. Yes, ma'am?

Ms. Brazauskas: I have a question for Lori.

Mr. Salerno: No ma'am; the lady behind you.

Ms. Bisceglia: I'm Helene Bisceglia. I live at 58 Old Brook Road. Although I agree with you 100 %, the problem is that we're faced with cleaning up that lot often times. People ride past, and because they see it as woods or whatever, they throw coke bottles and trash. The shed is an eyesore. It looks like it's going to fall down. We have a little boy that we want to make sure doesn't come in contact with any of that. As much as I agree that it's nice to keep the wildlife, we're faced with the problem.

Mr. Salerno: How is that going to change if there's a house built on this lot?

Ms. Bisceglia: Well, I'm just hoping that it will become more residential over there and that people will take more care. I don't know enough about building, but something's going to go through there. Am I assuming a drive is what this means? I'm just hoping that people will take more care with it.

Mr. Salerno: Okay. Ms. Foley.

Ms. Flynn: My name is Lori Flynn.

Mr. Salerno: Flynn, I'm sorry.

Ms. Flynn: That's okay. There's an awful lot of property back there. I'm not sure exactly where they're planning on building.

Mr. Mattos: Can I show you?

Ms. Flynn: Sure. I know that I'm right on the corner and there's a lot of land.

Mr. Mattos: Here's the corner and here's your lot here. This orange lot is it.

Ms. Flynn: That's his house and mine is over here?

Mr. Mattos: Yours is over here.

Ms. Flynn: Mine is on the corner.

Mr. Mattos: Oh, Okay. You bought Mr. Fohlin's home?

Ms. Flynn: Yes.

Mr. Mattos: Okay. The vacant lot right here is Mr. Fohlin's. It's the next piece of land here. I have that lot.

Ms. Flynn: Thank you.

Mr. Salerno: Yes ma'am. Go ahead Mr. Gordon.

Mr. Gordon: What is the hardship?

Mr. Salerno: I don't know.

Mr. Gordon: Mr. Mattos, what is the hardship?

Mr. Mattos: I guess the only hardship that Scott and I see is that the lot is split by a zone line. If that's not a hardship, then I don't know. The greater percentage of the land area is in the less restrictive part of the zone. There is more land area in the less restrictive part. The frontage would meet the less restrictive part at 100 ft. I had the ability to acquire the extra square footage that would supercede the 20,000 by 900 sq. ft. for the more stringent requirement.

Mr. Gordon: I just have 1 other question. Ron, if Mr. Fohlin's lot has become a trash receptacle, isn't that a board of health matter?

Mr. Alarie: Yes.

Mr. Gordon: I would suggest to the neighbors that, if you feel that this is becoming a place where everybody who drives by throws their trash, you should report it to the board of health.

Mr. Salerno: Okay, if it's something new.

Mr. Bisceglia: I did report it and they said that it was a non-issue. So, that's where that stands. I'm hoping that if we build behind this lot it would encourage Mr. Fohlin to sell the front lot to put another house between them. That's my wish.

Mr. Salerno: Yes. I'm just having trouble linking all of that up.

Mr. Bisceglia: Well, if he has something behind him, he might build something or sell the lot.

Mr. Salerno: Why would he be motivated?

Mr. Bisceglia: Well, I don't know. You know what, it's a wish of mine. It may be far fetched, but if you beautify one part of it, it could possibly encourage him to sell the other part.

Mr. Mattos: If the board grants us, I'll help him clean it up.

Ms. Brazauskas: I just wanted to make a comment. One is that it's Mr. Fohlin's right to own that land. You purchased the land that you live on knowing what it looked like across the street. Secondly, the trash issues, we get them on South Street. People throw things out as well. So, I understand what you're saying, but maybe we could have a neighborhood clean-up day.

Mr. Salerno: It sounds like a plan. Okay. Sir, do you want to make a comment?

Mr. Migala: If I may, please. Members of the board, I'm Scott Migala. I've owned the property for almost 30 years now. I do live in the corner house of Old Brook Road and Old Brook Circle. We did subdivide it with the approval of the town. Please remember that. It was after the fact that we found out that it was not conforming, that the zone line ran through. I believe that Ron can confirm that.

Mr. Salerno: Maybe you can help me with that because I'm really stuck on this. You cut the land up?

Mr. Migala: I owned the corner house.

Mr. Salerno: When you divided up this lot?

Mr. Migala: I created 2 lots. The one with the house on it and this one.

Mr. Salerno: You created 2 lots and you had a plot plan for both of them?

Mr. Migala: That's right, which was approved.

Mr. Salerno: What was it that you didn't know it was 100 ft.?

Mr. Migala: No, because the zone line, they felt, ran down the street. It didn't run through the lot.

Mr. Alarie: Unfortunately, the original subdivision plans showed the zone line running down the center line of Old Brook Road. That was not correct. You can see how it diagonally cuts in a northerly direction there. It just so happened that, after the ANR plan was endorsed, this whole issue then came about. I'm not sure whether it started at that time when someone was seeking a building permit or how it came about, but I realized that that zone line bisected the lot and, therefore, it didn't have the required frontage.

Mr. Salerno: Was that a result of a Superior Court decision?

Mr. Alarie: Subsequent to my determination, Mr. Migala sought a variance. The board granted a variance. The neighbors appealed and that decision was overturned in Superior Court.

Mr. Migala: If I may add, please. That decision was overturned based on the fact that, when we originally applied for the variance the 1st time, nobody attended. My wife called the town hall. She was told that she didn't have to go. I was working at night at the time so nobody came. So, automatically it was denied. The zoning board rescheduled another hearing for us when we explained to them what happened. The neighbors appealed under that, that the zoning board had no right to grant another hearing. I believe there was a time of a year or a year and a half that you had to wait before they could rehear it. That's why it was denied.

Mr. Alarie: I do not think that was the case. I think the board actually granted the variance. The neighbors appealed. The Superior Court ruled that the board erred in not meeting the statutory requirements.

Mr. Migala: Not the first one, Ron.

Mr. Alarie: I think it was either withdrawn or not acted upon, but the actual hearing in which the board positively voted to grant the variance was then appealed to Superior Court by the neighbors. That was heard on the merits of the appeal. The judge in that case ruled that the board overstep its bounds in granting the variance.

Mr. Gordon: What was the basis of granting the variance at that time?

Mr. Alarie: My recollection is that part of their decision involved the approval of that ANR plan and the confusion over the location of the zone line.

Mr. Migala: But, members of the board, what I would just like to say is that people are concerned about this, if it becomes a legal lot, that it would be a detriment, I believe, to some of the neighborhood. The lot is currently used as a refuse area for yard refuse and other things from other neighbors. I believe a house on this lot would not in any way be a detriment to anybody in the neighborhood. The lot does conform, area wise, now. It is only lacking 25 ft. of frontage. There is no question about that.

Mr. Mattos: The town would be able to draw full taxation on the property as opposed to vacant land.

Mr. Gordon: I don't think that's something we can consider.

Mr. Mattos: Well, I just thought I would put it in anyway.

Mr. Migala: There is also sewer and water on the street for the lot already. That was put in there when Old Brook Circle was developed and Old Brook Road.

Mr. Mattos: When you bought the property, where was the zone line, in the street?

Mr. Migala: I was told that it was down the street.

Ms. Murphy: Did anybody appeal the decision of Superior Court?

Mr. Migala: Yes.

Ms. Murphy: So it went to the appeals court?

Mr. Migala: Mr. Conlin and Mr. Lucek did.

Ms. Murphy: And?

Mr. Salerno: No, no. I don't think the decision on the Superior Court was appealed.

Mr. Migala: No. We dropped it at that point because it was becoming too expensive. I was just a kid and had no money.

Mr. Salerno: I don't think it's going to be any cheaper to appeal it either again now.

Mr. Migala: Right. I have more money now. What can I say.

Mr. Salerno: Okay. Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

The decision of the board is on the following page.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to deny the appeal of Scott Migala, 4 Montclair Drive, Worcester, MA, and Gary Mattos 7 Wachusett Ave., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage Requirement, Residence B-1 District, to allow the construction of a single family home upon a lot having 100 ft. of frontage located at 57 Old Brook Road.

The subject premises is located on the northerly side of Old Brook Road one lot easterly of Old Brook Circle. It contains 20,890 sq. ft. of land, has 105 ft. of frontage and is bisected by a district boundary line. Its frontage and approximately 40% of its land area is situated within the Residence B-1 District and the remainder of the lot is zoned Residence A. The board noted that this property, minus the 1,975 sq. Parcel B as shown on the plan accompanying the appellants' filing, has been the subject of several hearings since 1977 and that a variance from the applicable frontage requirement granted in May of 1977 was subsequently overturned on appeal. Decisions on similar appeals rendered in 1987 and 1997 mirror the court findings that there was no special hardship relating to this site that would satisfy the statutory requirements for the granting of the variance.

Upon review of this appeal, the board concluded that, other than annexing Parcel B, the facts and the circumstances relating to the creation and the existence of this property or the pertinent state statutes governing the issuances of variances have not changed with the passage of time. It was their opinion that the granting of the relief requested would violate the applicable provisions of Chapter 40A, Section 10, of the Massachusetts General Laws as well as the purpose and intent of the Zoning Bylaw and they, therefore, unanimously voted to deny the appeal.

Vote

Mr. Salerno	No
Mr. George	No
Mr. Gordon	No
Ms. Murphy	No

PUBLIC HEARING: Govone Brothers Realty, Inc., 567 Hartford Tpke., Shrewsbury, MA.

PURPOSE: To hear the appeal of Govone Brothers Realty, Inc., P. O. Box 634, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal of the building situated upon property located at 567 Hartford Tpke. and its replacement with a new building maintaining the existing setbacks of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 48 as Plots 7 and 7-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Please identify yourselves for the audio record and make your presentation.

Mr. Grenier: Thank you Mr. Chairman. I am John Grenier with J.M. Grenier Associates. I'm here with Bernie Govone of Govone Brothers Realty.

Mr. Salerno: What I was going to tell you is that, as you can see, there are only 4 board members sitting. Again, Mr. Rodolakis feels that he may have a potential conflict and, as a result of that, he has recused himself. That will change the voting ratio for your petition. Again, not to prejudice you, we would give you the opportunity to present this before a full board. Again, Mr. Alarie, the courtesy would be extended to put them on the next meeting?

Mr. Alarie: Correct.

Mr. Salerno: I don't know if you want to take a minute and discuss that with your client as that affects him. We can hear your appeal tonight or do it at the next hearing if you want.

Mr. Grenier: No, we're going to proceed tonight.

Mr. Salerno: You want, for the record Mr. Govone, to acknowledge that you are going forward with the 4 member board?

Mr. Govone: Yes.

Mr. Salerno: Okay. That's your decision?

Mr. Govone: Yes.

Mr. Salerno: Okay. Thank you, Mr. Govone. Go ahead.

Mr. Grenier: Thank you very much. The property that we are before you for tonight, just for reference, is right across from Hebert's Candy Mansion. Also, the Polito commercial park is just east of this project. Currently, there is one building located on the site that is shown right here. Historically, that was an old gas station. The Govones have a construction company. You have the property under agreement?

Mr. Govone: Yes.

Mr. Grenier: They use that as a construction yard. They work out of that right now.

Mr. Salerno: What do you mean by "it's under agreement?"

Mr. Govone: They have an agreement to buy it with the present owner. We're just proceeding with the building permit before we buy the piece of property.

Mr. Salerno: Okay.

Mr. Grenier: He's going to buy the company. This existing structure is nonconforming in regards to the front yard setback. Currently, it is 14 ft. off of the front yard. What the Govones are looking to do is to raise that existing building and to then construct a new building that more suits their purposes. They would have garage doors on the sides of the building, have a small office in the front and make it a little bit more appealing.

Mr. Salerno: Do you have any profiles of that?

Mr. Grenier: I do not have any profiles. To give you a feel as to what they propose, just down Route 20 there is a building that it would be similar to. If you look at the Wall Septic or the Wall Construction building that is under construction, it would be very similar to that. They have a commercial building right there. They have a small office. They have garages on the back.

They would have garage doors on the side. Actually, this new building would be more conforming, although not fully conforming with the front yard setback. The front 50 ft. front yard setback that is required by the zoning runs approximately through here. The

relief that they are looking for is to go from the required 50 ft. front setback to here where the closes point is 36.2 ft. So, that's a difference of about 14 ft. closer to Route 20 than the current zoning allows for.

In all other respects, this lot would be fully conforming. We have done our homework. We've already sat down with the engineering department with regard to conservation issues. We believe that the plan that we have before you reflects some of their concerns and comments. We've already done perc tests on this site to show that there are suitable soils to put a septic system in to accommodate this use. Although there would be a small need for septic having just one office, we can accommodate that.

So, with that, what we're trying to do is take what is a seriously nonconforming front yard setback and make it significantly more conforming at a ratio of about 2 ½ times what the current building's setback is. With that, I put it to the board for questions and comments.

Mr. Salerno: Just one question with 2 parts. What is the number of anticipated employees and the number of vehicles that will be there?

Mr. Govone: Presently, we only have 4 workers. We're not going to increase by more than 1 or 2 people. Parking, like I say, would only be needed for 4 vehicles. We take some of the trucks home and the other trucks would be garaged.

Mr. Salerno: Is this the gas station maintenance business?

Mr. Grenier: Yes. Usually the hours that they keep start early in the morning. They have a construction company. They do significant traveling. They're there at about 4:00 or 5:00 in the morning parking their vehicles, taking some of the work vehicles and then leaving the site. So, there's not a lot of in and out traffic.

Mr. George: Are most of the vehicles going to be parked inside at night or will they be left outside in the yard?

Mr. Govone: We only keep one truck outside, but with this new building, we will be able to keep the big 10-wheeler inside.

Mr. George: So, everything will be kept inside the building?

Mr. Govone: With the trucks, yes.

Mr. Gordon: What's going to happen to the 40 footers, the temporary structures, the gray ones on the east side?

Mr. Govone: We could get rid of a couple of them. We house some of the materials that we deal with in those trailers, but if you wanted to get rid of a couple of them, we could or push them way in the back to the left-hand corner.

Mr. Grenier: With this new building there would be at times where they have excess materials or whatever and this would allow us to have some storage area back there. So, it's screened. Right now, a lot of the materials are right here, which you can see as you are driving by. Having this building located here will provide for some additional screening from Route 20.

Mr. George: What types of materials are stored in those units?

Mr. Govone: There are PVC materials, building materials, lumber and things like that.

Mr. Govone: Basically, if you buy it, you're asking to tear down a 900 ft. garage and put up a 4,500 ft. modern building?

Mr. Grenier: Correct.

Mr. Gordon: One Story?

Mr. Grenier: Yes. The existing is about 1,500 sq. ft.

Mr. Gordon: My eyes aren't as good as they used to be. What about wetlands issues? Although this board doesn't deal with them, do you have to do before conservation?

Mr. Grenier: We do. That would be the final permitting process that we would have to go through. That's next on our list.

Mr. Gordon: How far back are you from the right-of-way, Mass Highway's right-of-way?

Mr. Grenier: The closest point is 36.2 ft. to this front corner right here.

Mr. Gordon: From the right-of-way?

Mr. Grenier: Yes, from the right-of-way. So, we're 55 ft. off of the traveled way.

Mr. Salerno: In the proposal that you've got up there, is that some plantings that are in front of the building? Is that a lawn island?

Mr. Grenier: This would be a lawn island, maybe some plantings in front of the building, but what we're looking at is having maybe a couple of parking spaces adjacent to the building, being able to get some vehicular access around the whole building for plowing and what not and then having some green space in the front right there.

Mr. Gordon: So, you will be putting in a permanent surface with drains?

Mr. Grenier: Yes.

Mr. Gordon: You're going from a mud lot to a paved lot?

Mr. Grenier: Right now, everything sheets off of this and goes directly into the wetlands. We would be putting in pavement with some curbing, having some drainage structures and putting in some type of a small detention basin/infiltration basin right there. So, through the conservation process, we're going to have to treat the runoff and meet all the TSS removal requirements. So, we would be improving the site in terms of runoff.

Mr. George: Are there 2 curb cuts already there?

Mr. Grenier: Yes, there are.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Govone Brothers Realty, Inc., P. O. Box 634, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal of the building situated upon property located at 567 Hartford Tpke. and its replacement with a new building maintaining the existing setbacks of said property.

The board reviewed the appellant's proposal to remove an old gasoline/repair service station building situated upon the subject property and to replace it with a new modern building that would house the Govone Brothers' contracting business and found that the granting of the special permit would promote the objectives of the Zoning Bylaw. The board noted that the existing building and the site are nonconforming in several regards and found that the re-development of the property would, although it would not be in total compliance with current dimensional requirements, substantially improve the building setbacks, the appearance of the site and would control the surface drainage discharged therefrom. They further noted that the improvements proposed by the appellant would advance the quality of this site which, environmentally, has been contaminated through its prior aforementioned use. It was their opinion that, overall, the reconfiguration of the property would lessen its nonconforming impact upon the adjacent properties and, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Salerno	Yes
Mr. George	Yes
Mr. Gordon	Yes
Ms. Murphy	Yes

PUBLIC HEARING: Gina Cariglia, 46 North Quinsigamond Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Gina Cariglia, 271 Harrington Way, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 46 North Quinsigamond Ave. as a hair salon. The subject premises is described on the Shrewsbury Assessor's Tax Plate 31 as Plot 145.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Melvin P. Gordon, Bridget M. Murphy, Stephan M. Rodolakis and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on July 19, 2004 and July 26, 2004.

Mr. Salerno: Would the parties please come forward and identify themselves for the audio record.

Ms. Cariglia: Gina Cariglia.

Mr. Shedd: Edward Shedd, 18 Hunting Ave. in Shrewsbury.

Mr. Shedd passed out information packets and pictures to the board members.

Mr. Shedd: I apologize for the photography, I'm not a professional.

Mr. Chair, members of the board, if I might, as a matter of further introduction, as I said, my name is Edward Shedd and I own and operate Loring Associates which is a part time real estate brokerage. I'm a friend of Ms. Cariglia's. She has asked me to help her present her appeal this evening. That's why I'm here.

As far as Ms. Cariglia is concerned, she is a young business woman who has been in her business for 19 years. She currently operates Gina's Beauty Salon, which is in the rear of the parking lot at the Ground Round. She's been in that location and in business in Shrewsbury for the last 5 ½ years. It's obviously a great location for her. Unfortunately, with what's transpiring, she has been told that she needs to find a new place to carry out and conduct her business. That's what brings us here this evening.

Mr. Salerno: You're making reference, Mr. Shedd, to the Ground Round being replaced by a Walgreen's Super Store?

Mr. Shedd: I believe that's correct.

Mr. Salerno: That's what's displacing her?

Mr. Shedd: Yes. Ms. Cariglia has found a piece of property at 46 North Quinsigamond Avenue that would meet her needs very well. However, as Mr. Salerno has indicated, it's not currently zoned for business. To that end, we have several points, just a brief presentation, that we would like to make.

Ms. Cariglia's business is small. It's clean and it's extremely quiet and unobtrusive. She tells me that she is the only fulltime employee. She has 3 part time employees. She averages 3, sometimes 4, customers an hour. That would seem not to have a great impact on either traffic or parking in the area.

We've spoken with most of the abutters. I personally spoke with Mr. Burke, who is the most open abutter located directly behind the property along Olympia. When I first had conversation with Mr. Burke, he was not in favor of a business being put into that property, any kind of business. I'm not involved. I'm not the listing broker on this property. I have spoken to the listing broker. He indicates to me, although I have not personally spoken with Mr. Burke, that he no longer has an objection. Again, I don't know that personally, but I have been told that.

Mr. Salerno: Is Mr. Burke here?

Mr. Burke: Yes.

Mr. Salerno: Oh, there you go, you can speak for yourself Mr. Burke. We're going to let him finish his presentation and then we're going to ask you to comment.

Mr. Shedd: The other abutter is a duplex that is on Miles Ave. It is the first home on the right as you turn onto Miles. I was able to speak with one of the residents there. They stated that they had no objection to the property. Although I visited that location on 4 separate times, I was never able to speak with the other person living on the other side of the duplex.

Mr. Salerno: This is at the corner?

Mr. Shedd: Right at the corner of Miles and North Quinsigamond.

Mr. Salerno: Is there any resident of that here? Okay. I'll take your representation on that.

Mr. Shedd: I did speak personally with a Miss Burnett who is the immediate house on North Quinsigamond Avenue after number 46. She indicated to me that she had absolutely no objection to a salon going in in that area or in that building. The only other abutters that I spoke with, who I believe are the only other abutters to the property, are the Hunters at 6 Miles. They indicated, at least Mrs. Hunter indicated, that she did have an objection to any business in the area. However, if I might be allowed to say, it was my impression that I did receive from Mrs. Hunter in talking to her, that she kind of left me with the feeling that it wasn't a serious objection. I think Mrs. Hunter is here. I think I recognized her.

Mr. Salerno: Mrs. Hunter? There she is. Okay, I'm sure we'll hear from you.

Mr. Shedd: Again, I don't mean to put words in her mouth. That was just an impression I was left with.

Thirdly, I'd offer these photographs. There are 4 photographs. I'll just speak briefly to them. The first is a picture of the front of the house from across the street looking down towards Miles Ave. It shows the distance from the edge of the property to the property line. I measured that to be 66 ft., approximately 66 ft. It also shows you that there's a 5 ft. fence constructed all along that property, a solid fence and a considerable amount of foliage. As I said, the distance to that fence line is 66 ft. from the edge of the building itself.

The second photo was taken at the back entrance of 46 North Quinsigamond Avenue looking toward the Burke property. Obviously, that is a wide open area. The distance measured approximately 67 ft.

The third photo was taken from the closest back corner of 46 North Quinsigamond Avenue on an angle to the Hunter property, which is in the far back corner. As you can see by the photograph, you can hardly see the Hunter home. It's in the very back corner of the property. The property line is approximately 70 ft. from the farthest back corner of the building at 46 North Quinsigamond Avenue.

All in all, except for the Burks, the neighbors are well shielded from the property at 46 North Quinsigamond Avenue. As I previously stated, it is a quiet and a clean business.

If I could put another hat on for a minute, in 35 years of experience in law enforcement, being a law enforcement officer and an official in law enforcement, I believe there are 3 or 4 areas that cause problems with neighbors. I think only the Burkes are affected by one of these.

One of the problems is boundary lines. I assure you, and I think that Ms. Cariglia would assure you, that she has no intention of doing anything with boundary lines, requesting any changes or looking at any changes.

Secondly, observations that abutters might make on the property that abuts them. I would again submit that there is nothing that would be going on at this business or on the property that would be offensive. Additionally, as I said, all but the Burkes are pretty shielded and do not have an open view of the property as indicated in the very last photograph.

Lastly is noise. I would again suggest that the business does not generate the type of or any type of sound that would be disruptive to the neighborhood or to the community around there.

Ms. Cariglia wishes to purchase this property. She believes it's what she needs to develop her business, but she cannot do so without the zoning change. It would be kind of foolish for her to take that jump. She'd ask the board to look at what she's presented and to rule in her favor. A positive ruling would allow her to relocate and start up her business and keep her business here in Shrewsbury. Without such a ruling, she won't purchase the property. She won't be able to purchase the property and her business would more than likely fail here in Shrewsbury. So, in essence, I think what she is really trying to do here is to ask for the approval of the board for this zoning change at 46 North

Quinsigamond Avenue. An approval in writing would go into immediate effect after she provided this board with a fully executed deed in her name. That's basically what she's here to ask the board for.

Mr. Salerno: Mr. Shedd, just a 2-part question. What are the hours of operation and days of operation that would be requested?

Mr. Shedd: I think I would let Ms. Cariglia answer that.

Ms. Cariglia: We're open Tuesday through Saturday, every day is different, with 2 nights until 8:00.

Ms. Burke: We can't hear her.

Mr. Salerno: Tuesday through Saturday, Ms. Cariglia?

Ms. Cariglia: That's correct. Wednesday and Thursday until 8:00 P.M. We close around 3:00 on Saturday afternoon. We're not there Sunday and Monday. Tuesday and Friday we close by 5:00 P.M.

Mr. Salerno: Okay, so on Saturday you're closed by 3:00?

Ms. Cariglia: Yes and on Sunday and Monday we're closed.

Ms. Burke: Open until 8:00 on 2 nights?

Ms. Cariglia: Two nights, Wednesday and Thursday.

Mr. Salerno: Okay. Mr. Shedd, do you know the square footage and what floors are going to be utilized?

Mr. Shedd: Off hand, I do not know the entire square footage, but she would utilize the total first floor and at least 1 room on the second floor.

Mr. Salerno: Do any board members wish to inquire?

Mr. Gordon: This will not be used as a residence, just as a business?

Mr. Shedd: Just as a business, that's correct.

Mr. Gordon: How many chairs do you have?

Ms. Cariglia: I hope to have 4. I only have 2 hairdressers working for me right now.

Mr. Gordon: What is the potential maximum business with 4 chairs under the hours that you have?

Mr. Shedd: How many do you think you would serve in a week of operation?

Ms. Cariglia: In a week?

Mr. Gordon: No, in a day.

Ms. Cariglia: In a day, it depends on the day.

Mr. Gordon: Your busiest day.

Ms. Cariglia: My busiest day would be Wednesday.

Mr. Gordon: Okay. How many people would you have if you had 4 chairs?

Ms. Cariglia: I would have 2 hairdressers plus myself, so the three of us, plus a part-time nail lady who comes in in the afternoon at 2:30.

Mr. Gordon: Okay, so that is basically 4 cars?

Ms. Cariglia: Four employee cars.

Mr. Gordon: Four employee cars?

Ms. Cariglia: Correct.

Mr. Gordon: Okay. How many customer cars, client cars? I don't know what you call them.

Ms. Cariglia: Four.

Mr. Shedd: Three an hour?

Ms. Cariglia: No. My nail lady is like 1 to an hour. I'm maybe 2 to an hour and the other girls are 1 to an hour.

Mr. Shedd: She's saying about 1 to 2 an hour, so it would be 3 max.

Mr. Gordon: Four people an hour if you were doing the busiest day of the week?

Ms. Cariglia: Yes.

Mr. Salerno: Do any other board members have questions?

Mr. George: In these pictures, which picture is this? Is this part of the property right here?

Mr. Shedd: This is looking toward Mr. Burke's property along Olympia Ave. This is the back actually.

Mr. George: So, this is the property that she wants to purchase.

Mr. Shedd: Yes.

Mr. Gordon: Ron, is the building across the street, the one with the store front, commercial?

Mr. Alarie: That's a legal nonconforming use. All of this area is residentially zoned.

Mr. Gordon: It's an office that they run across the street?

Mr. Alarie: It's a nonconforming use.

Mr. Gordon: Is it still in use?

Mr. Salerno: Yes, it's still running there.

Mr. Shedd: Does the business zone stop just prior to Olympia?

Mr. Alarie: No. You have the towers. It's probably just at the back edge of the Bronzo property on that side of the street.

Mr. Gordon: How many parking spaces will you be looking for? I see that you say that you are putting 5 here. If you're going to have 4 people working for you, that only gives you 1 client space.

Mr. Salerno: But, are all 4 there at the same time?

Ms. Cariglia: No.

Mr. Gordon: I noticed that there's a curb cut on 46 North Quinsigamond Avenue and at 47's mailbox there's another curb cut.

Mr. Shedd: She wouldn't be utilizing any of that.

Mr. Gordon: Will you be utilizing any of that?

Ms. Cariglia: I haven't had anyone come out to look at the parking.

Mr. Gordon: Okay.

Mr. Salerno: I think you were looking at it if all 4 were going to be there at once.

Mr. Gordon: Well, yes. What I'm looking at also is, if the Burkes are the most exposed and if there's a problem with where the cars are located, could the cars be located somewhere else so that the only one that could see them is the commercial business across the street? But, is that dangerous?

Mr. Salerno: Not if it enters from the side.

Mr. Shedd: It would certainly be something that, if the board deemed that she needed to do something, I'm sure she would be cooperative.

Mr. Salerno: There are people in attendance at this late hour who came out here and want to comment. Just tell us your name sir. We already know you're Mr. Burke, but just identify yourself for the record.

Mr. Burke: Robert Burke. This is my wife Catherine, who is the executrix of the property at 46 North Quinsigamond Avenue. My concern is the parking on Olympia Avenue. It's a private street. It's a dirt street. It actually is a very narrow street because of trees and brush that have grown over the corner. So, if you are making a right-hand turn into Olympia Avenue from North Quinsigamond Avenue, it would be quite dangerous if a lot of traffic is coming through. We have quite often had emergency vehicles, fire trucks, ambulances, police cars and so forth going through. If Route 9 is tied up, sometimes they use that to get through. Also, plowing snow in the wintertime, if there are cars parked on Olympia Avenue, which I don't think they should be because the property is on North Quinsigamond Avenue, then it would be hard to plow the street properly.

Mr. Salerno: So, you would want to see some type of off street parking?

Mr. Burke: There's room on 46 North Quinsigamond Avenue.

Ms. Burke: There's plenty of room on the property to make parking.

Mr. Gordon: I'm just a little curious. If you're wife is the executrix of this property, isn't she selling this property to Ms. Cariglia?

Ms. Burke: Yes.

Mr. Burke: Isn't she what?

Mr. Gordon: Isn't she selling this property to the proponents?

Mr. Burke: Yes, to these people, but our problem is, if they park on Olympia Ave., it's hazardous to us. If they want to make a parking lot on North Quinsigamond Avenue, we don't care.

Ms. Burke: We don't want them parking on Olympia Avenue. Otherwise, we don't have an objection to her getting that.

Mr. Salerno: I think Mr. Gordon's going to solve that for you by recommending something be inserted in the deed or the agreement. But, that's something that you can work out.

Mr. Shedd: Mr. Chair, I would also say that Ms. Cariglia is not in any way, and we did not intend to mislead you to that affect, looking to have parking exactly on Olympia Ave.

Mr. Gordon: No? It shows it on the plan of the property that she's using at least 20 ft.

Mr. Shedd: Correct.

Mr. Gordon: Ms. Cariglia, if you were granted a use variance, would you be willing to have a privacy fence in the front section where your cars are going to be parking?

Ms. Cariglia: Absolutely. Oh yes, I'll do whatever it takes. How high does that have to be to be a privacy fence?

Mr. Gordon: Four, five, six, eight, up to 35 ft.

Ms. Burke: What would that be for anyway?

Mr. Gordon: To shield any cars that are parked there, if they are parked there, from you.

Ms. Burke: It's the street itself that we don't want them parking on because it would be a hazard and a danger to our neighbors down the street.

Mr. Gordon: Well, I don't think Ms. Cariglia's talking about parking on the street.

Mr. Shedd: Not at all.

Ms. Cariglia: No, not at all.

Mr. Gordon: She's talking about parking on what would be her property. Isn't that correct?

Ms. Cariglia: That's correct.

Mr. Gordon: None of your employees and none of you clients would park on the street?

Mr. Shedd: That's correct.

Mr. Gordon: I assume you would have no objection to a street sign saying "No Parking?"

Ms. Cariglia: Absolutely not.

Mr. Gordon: You would go to the selectmen to get one.

Ms. Cariglia: I don't know if you've been to Olympia. It's very treacherous.

Ms. Burke: This property was in my family since I was a child. My sister lived in it. She died 2 years ago. I was left with this piece of property.

Mr. Rodolakis: You have an agreement with Ms. Cariglia to sell her the property?

Ms. Burke: No, I have no agreement.

Mr. Shedd: Not yet.

Ms. Burke: I don't even know her. We are going through our realtor. He had me sign a paper so that she could go for a variance. I did sign it and I have no objection to her being there with that business. I do have many, many objections to parking on Olympia Ave.

Mr. Salerno: Sure. So, if this were to be granted, you would like to see a restriction that prohibited on street parking?

Ms. Burke: Right.

Mr. Salerno: Okay. Does somebody else want to comment? Sir, would you just identify yourself for the record.

Mr. Grant: My name is Elmer Grant. I live at 43 North Quinsigamond Avenue, right across the street from you. They want to put a business in. I think we've got enough businesses on North Quinsigamond Avenue. I'm against it totally.

Mr. Gordon: Which is your property?

Mr. Grant: It's right across the street. I have to walk across the street to get my mail. I wait 20 minutes sometimes to get across the street to get my mail.

Ms. Murphy: Because of the traffic?

Mr. Grant: Because of the traffic.

Mr. Salerno: Is that traffic going to that area or is it just traffic on North Quinsigamond Avenue?

Mr. Grant: It's up and down North Quinsigamond Avenue. The speed limit's 30 m.p.h. and they're doing at least 50 most of the time.

Mr. Salerno: Okay. Well, again, we appreciate your comments. I think what I'm confused about is the traffic. There's only one other business right there directly across from you. I don't know how much traffic that gets. I haven't seen much there over the years.

Ms. Burke: He gets plenty.

Mr. Salerno: He gets plenty? Again, I appreciate you comments.

Mr. Grant: He's probably got 8 unregistered cars in the driveway.

Mr. Salerno: What's that?

Mr. Grant: The guy next door, whatever it is that is there.

Mr. Gordon: That's an issue for the board of health and the police chief. What are we allowed, one car?

Mr. Alarie: There's a town bylaw that only permits one such vehicle. The police enforce that.

Mr. Gordon: Unregistered?

Mr. Salerno: One unregistered, right.

Mr. Gordon: So, if you're unhappy with that, the police are the place to go.

Mr. Salerno: How about anyone else who came out tonight? Sir, just identify yourself for the record.

Mr. Tyndall: My name is John Tyndall. I live at 1 Birchwood Drive. I've know Ms. Cariglia for about 4 years. My lack of hair isn't from going to her beauty parlor. I would hope that the board of appeals would endorse this and we can keep a small business in Shrewsbury. Unfortunately, a big business is coming in and saying "get out." I think the board should get behind the small businesses in this town. Thank you.

Mr. Salerno: Thank you, Mr. Tyndall, for coming. Yes ma'am.

Ms. Hunter: I'm Judy Hunter of 6 Miles Ave. Our property does just touch at the corner.

Mr. Salerno: In the corner?

Ms. Hunter. I'm not even concerned. That's not an issue with me. What is an issue is the parking. I think the driveway that you have now is, and I could be wrong, on Olympia Ave.

Ms. Burke: Which driveway? They don't even have a driveway. She doesn't have a driveway. She has nothing to do with it now.

Ms. Hunter: Well, I know, I know. But, if she did have it, where would it be?

Ms. Burke: Yes, in the future, but there's a driveway going down to her property anyways. That's just at the corner of Olympia Avenue. There's no driveway there.

Ms. Hunter: Well, there might not be a driveway, but right where they previously parked their cars was on Olympia Ave.

Ms. Burke: Yes, that was one car my sister had.

Ms. Hunter: That's fine and I understand that. But, you're talking about your wanting to put it on North Quinsigamond Avenue. That is just a highly traveled road. That road at 5:00 is just horrible. It's dangerous. To back out onto North Quinsigamond Avenue, you would take your life in your hands.

Mr. Gordon: Mr. Chairman, I don't know who can answer this question. I notice on Olympia Ave. right next to the back porch which goes in, I would say, about 25 or 30 ft., there's a stone area. Is that the area that was used for parking?

Ms. Burke: Yes. That's where my sister used to park her car, up to that stone.

Mr. Gordon: So, that is a stone parking area?

Ms. Burke: She put that stone wall in there because it drops down.

Mr. Gordon: I guess I saw that. So, there is a history of parking there, off of the street.

Mr. Shedd: Mr. Chairman, there's also room where that entranceway is. You can't really see it in the picture, but if you turn from that entranceway that's shown in the picture that's pointed towards the Burke home, there's ample area there to put some perpendicular parking in for at least 4 or 5 cars.

Mr. Salerno: Off street, on the property?

Mr. Shedd: Off street.

Mr. Salerno: Ms. Burke?

Ms. Burke: There's enough room in the backyard for her to make parking if she wants to put a driveway down into it.

Mr. Salerno: I think that's what they were suggesting.

Ms. Burke: Yes. But, you know I know there is a berm open on North Quinsigamond Avenue, but it would be a danger for anybody trying to get out of it.

Mr. Salerno: I think we have a consensus of what you and the Hunters and the folks here are concerned with. The concern is that you don't want on street parking on Olympia Ave. and you don't want entrances and exits onto North Quinsigamond Avenue. So, there would be at least some language in the decision that would require the installation of pavement and driveway that would be on the property and not exiting onto Olympia.

Ms. Burke: I talked to one of my neighbors right next door to me. She said that she has no objection, but she wants them to stay on that property, not on Olympia Ave.

Mr. Salerno: Sure.

Mr. Gordon: I think we're all saying the same thing.

Mr. Salerno: Thank you for summing that up. Mr. Hunter?

Mr. Hunter: Roger Hunter, 6 Miles Ave. I originally came with no objection to her putting a hair salon there not realizing at the time that she has 3 or 4 employees. She's talking 3 or 4 employees and their cars. You're talking about 3 or 4 clients coming in early to park their cars. It might overlap. Now you're talking about 12 cars parked in that area at one time. That's a lot of cars to put there.

Mr. Salerno: Well, maybe we can address that.

Mr. Hunter: I had no objection to that originally, even if she was a 1 or 2 girl operation. When you get to 3 or 4, you're talking multiple cars there in that little parking area.

Mr. Salerno: Okay. Again, I was under the impression that that was the total number of employees, but not that they are going to be there at the same time. They can address that for you. Would somebody address Mr. Hunter's concerns?

Mr. Shedd: They're all part-time employees, Mr. Hunter. They're not all there at the same time. They have varying work assignment times.

Mr. Hunter: I realize that now. But, once this is passed, in the future it's out of our control and all of a sudden she has a business that just explodes and she has 4 full time employees and 4 people getting their hair done and 4 people coming in to get their hair done after that. It concerns me. It's a quiet residential neighborhood. I did not mind her initially wanting to put a business in there thinking that maybe it was a 1 or 2 girl operation.

Mr. Rodolakis: Mr. Hunter, is your concern primarily aesthetics. You don't want to be looking at a bunch of cars?

Mr. Hunter: I don't want a parking lot like Shaw's. It's a danger. Getting in and out of that street is a danger.

Mr. Rodolakis: If we limited the amount of parking spaces in our decision and required Ms. Cariglia to provide some sort of screening as relates to your property, would that alleviate your concerns?

Ms. Hunter: That's not it.

Mr. Hunter: It would be all right with me. The fact is, once you do that and because of her business and maybe it explodes, what do we do down the line? She's my neighbor. I don't want to have an argument with my neighbor over this issue a year from now.

Mr. Salerno: I think he's talking about preventing that by limiting what can happen in the future or during the course of the permit.

Mr. Gordon: I just have another question. Ms. Cariglia, how long have you been in business at Gina's II?

Ms. Cariglia: It's Gina's Hair. I've been doing this for 19 years, 5 ½ years here in Shrewsbury.

Mr. Gordon: Okay.

Ms. Cariglia: I love Shrewsbury.

Mr. Gordon: During those 5 ½ years, have you had the same business that you have now or less?

Ms. Cariglia: The same, the same.

Mr. Gordon: I know where you park now. You park in the Ground Round lot. So, you disappear in there because there are so many spaces. You're asking to put 5 here. Is that what you would need?

Ms. Cariglia: Every day is different, like I said.

Mr. Gordon: Well, just give me an idea.

Ms. Cariglia: I can't find anybody who wants to work fulltime. That's why I want to say to him nobody wants to work fulltime. I don't think I'll ever fill my salon with fulltime hairdressers. They just don't do it. Today I worked alone. Today is Tuesday. I work by myself. I had a receptionist. She came in for a couple of hours and then she left.

Mr. Gordon: So, that's 2 cars.

Ms. Cariglia: Right.

Mr. Salerno: Are you asking for a maximum of 5 parking spaces?

Mr. Gordon: Is that what you're asking for?

Ms. Cariglia: No, a maximum of 5? No.

Mr. Gordon: A maximum of what?

Ms. Cariglia: A maximum of 7.

Mr. Gordon: A maximum of 7 parking spaces? How many feet are there on the upper level from the back door to where it goes down, to where the wall is? How many feet is that; do we know? Do we have any idea?

Mr. Shedd: I don't know. I could give you an estimate. There is probably a 20 to 25 ft. area that could be dug out and leveled before you get to the open area that you're talking about.

Mr. Gordon: So, the upper area, you're saying that you could get 7 spaces?

Mr. Shedd: Easily.

Mr. Gordon: Ron?

Mr. Alarie: It's just conjecture. Without a true site plan, we can't be certain. I think you represented that there were 67 ft. from the house to Mr. Burke's property originally. Is that the area that you're talking about?

Mr. Shedd: From the back corner, that landing, to the edge of Mr. Burke's property, I believe I did say, yes, 67 ft. But, there's probably an additional 15 to 20 ft. if you turned around at that point and walked towards North Quinsigamond Avenue that can be used.

Mr. Gordon: My recommendation would be, if this passes and I don't know that it will, that you asphalt for 7 cars, stripe them and put a privacy fence on the corner of where the Burkes are on the other side of their fence.

Ms. Cariglia: Sure.

Mr. Gordon: Do you have no problem with that?

Ms. Cariglia: No problem at all.

Mr. Gordon: You understand that there will be no on-street parking?

Ms. Cariglia: Oh, absolutely.

Mr. Salerno: Ms. Burke, did you want comment on Mr. Gordon's suggestions?

Ms. Burke: There's room there for a sidewalk there which is not in. So, that's not their property or part of it.

Mr. Gordon: Well, they can't build anything that's not on their property.

Ms. Burke: Right. In front of our house, there's room for a sidewalk. Their land would just be straight up from ours.

Mr. Salerno: Mr. Hunter and Ms. Hunter, are there any concerns about privacy fencing as it faces your property?

Ms. Hunter: I don't believe so.

Mr. Salerno: Okay, because you're only abutting that little corner. So, that's not an issue for you?

Ms. Hunter: No.

Mr. Salerno: Okay. We'll take it under advisement and notify you of our decision. Thank you all for coming. Your opinions all carry the same amount of weight. It's important to hear from all of you.

Decision

On August 3, 2004, the Shrewsbury Zoning Board of Appeals voted three in favor of and two opposed to the granting of the appeal of Gina Cariglia, 271 Harrington Way, Worcester, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the use of property located at 46 North Quinsigamond Ave. as a hair salon.

Three members of the board, in considering the appellant's proposal to convert the single family dwelling situated upon the subject premises for use as a beauty salon, found that the relief requested could be provided without substantially derogating from the intent of the Zoning Bylaw. It was their opinion that, subject to limitations and conditions regulating the number of employees, the hours of operation, the location and size of the off-street parking area and its screening from abutting properties, the premises could be used as proposed without creating any condition which would detrimentally impact the welfare of either the general public or area residents. They, therefore, voted to grant the appeal.

Two members of the board found that there were no conditions affecting this property relating to either its physical characteristics, the structure situated thereon or its location that would warrant the granting of a use variance. Furthermore, it was their opinion that it would be unsafe to introduce additional traffic to this area of North Quinsigamond Ave. due to the volume and speed of the existing traffic and the difficult sight lines entering and exiting this property. Finding that the appeal did not satisfy the statutory requirements for the granting of the relief requested, they voted to deny the appeal.

As set forth in Section 15 of Chapter 40A of the Massachusetts General Laws, four consenting votes are required to effect a variance and, therefore, the decision of the board results in the denial of the appeal.

Vote

Mr. Salerno	Yes
Mr. George	No
Mr. Gordon	Yes
Ms. Murphy	No
Mr. Rodolakis	Yes